

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CARL STICH,

Plaintiff,

v.

NICKOLAS LIND, et al.,

Defendants.

No. 2:20-CV-1300-JAM-DMC-P

**ORDER**

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a "... short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege  
2 with at least some degree of particularity overt acts by specific defendants which support the  
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is  
4 impossible for the Court to conduct the screening required by law when the allegations are vague  
5 and conclusory.

## 6 7 **I. PLAINTIFF'S ALLEGATIONS**

8 Plaintiff names the following as defendants: (1) Nickolas Lind, a primary care  
9 health provider at Ironwood State Prison; and (2) Amardeep Kaur, a dentist at California State  
10 Prison – Solano. See ECF No. 1, pg. 2. Plaintiff alleges two claims for deliberate indifference to  
11 his medical needs under the Eighth Amendment.

### 12 Claim I

13 Plaintiff alleges that, while at Ironwood State Prison, he was sent to Alta Homes  
14 Hospital for blood work and treatment. See id. at 3. While there, Plaintiff states he contracted  
15 “HEP-C” from the blood, a development of which Plaintiff was not aware for some time. See id.  
16 Plaintiff further states that medical treatment of the virus has been delayed. See id.

### 17 Claim II

18 Plaintiff contends that, while at California State Prison – Solano, he was not  
19 provided dentures. See id. at 4.

## 20 21 **II. DISCUSSION**

22 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual  
23 connection or link between the actions of the named defendants and the alleged deprivations. See  
24 Monell v. Dep’t of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). “A  
25 person ‘subjects’ another to the deprivation of a constitutional right, within the meaning of  
26 § 1983, if he does an affirmative act, participates in another's affirmative acts, or omits to perform  
27 an act which he is legally required to do that causes the deprivation of which complaint is made.”  
28 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations

concerning the involvement of official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth specific facts as to each individual defendant's causal role in the alleged constitutional deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

Plaintiff's complaint suffers a key defect, specifically the failure to link either of the named defendants to the alleged violations of his Eighth Amendment rights.

### III. CONCLUSION

Because it is possible that the deficiencies identified in this order may be cured by amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to amend, all claims alleged in the original complaint which are not alleged in the amended complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be complete in itself without reference to any prior pleading. See id.

If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how each named defendant is involved, and must set forth some affirmative link or connection between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Finally, Plaintiff is warned that failure to file an amended complaint within the time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).

1 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. Plaintiff's complaint, ECF No. 1, is dismissed with leave to amend; and  
4 2. Plaintiff shall file a first amended complaint within 30 days of the date of  
5 service of this order.

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7 Dated: March 23, 2021



8 DENNIS M. COTA  
9 UNITED STATES MAGISTRATE JUDGE  
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